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Dockets Clerk, Room 4232
Docket No. MC-96-6
Office of the Chief Counsel
U.S. Department of Transportation
Federal Highway Administration
400 Seventh Street, SW
Washington, D.C. 20590

FHWA-97-2277-7

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LEGS./REGS. DIV.

FEDERAL
HIGHWAY
ADMINISTRATION

Dear Madam/Sir:

**FHWA Proposed Rule;
Safety Performance History of
New Drivers; Docket No. MC-96-6**

Mobil Corporation (Mobil) appreciates the opportunity to submit comments in response to the Federal Highway Administration's (FHWA) proposed revisions to the Federal Motor Carrier Safety Regulations (FMCSR), and specifically to those sections of the FMCSR that concern minimum safety information that new and prospective employers must seek from former employers during the investigation of the driver's employment record.

Mobil is a domestic private motor carrier owning and operating 100 commercial motor vehicles, and employing 250 commercial motor vehicle drivers. Mobil would be subject to these FHWA proposals both as an employer of commercial motor vehicle drivers seeking driver safety performance histories from former employers, and also as a former employer of commercial motor vehicle drivers, required to provide driver safety performance histories to other prospective employers.

Mobil is the second largest fully integrated petroleum company in the U.S. Mobil's operations involve all aspects of the petroleum industry as well as the chemical manufacturing industry. Due to the nature of our domestic distribution operations, Mobil is interested in FHWA's proposals, as they would impact Mobil's domestic private fleet operations. Mobil is a domestic private motor carrier operating 100 commercial motor vehicles, and employing 250 commercial motor vehicle drivers. Mobil relies heavily on highway transportation to transport and distribute a wide range of petroleum and chemical products. In addition to utilizing its proprietary fleet, Mobil employs contract motor carriage to assure timely and safe transport and distribution of its petroleum and chemical products.

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Mobil's current driver pre-employment practices include obtaining a 3-year history of information concerning a driver's: former motor carrier employers, work experience, employment record, moving violations, license revocation/suspension, positive tests for controlled substances, alcohol tests with concentration of .04 or greater, and refusals to be tested.

Mobil is in agreement with the intent of FHWA's proposals, that new and prospective employers obtain certain safety information from former employers during the investigation of the driver's employment record. Mobil is, however, concerned with the high level of detailed information that would be required to be maintained and made available by motor carrier employers, and detailed information that would have to be maintained and provided by former employers to prospective employers.

The *Hazardous Materials Transportation Authorization Act of 1994, Section 114*, requires FHWA to amend 49CFR 391.23 which specifies those investigations and inquiries a motor carrier employer must make concerning motor vehicle drivers it employs. The *Act* specifies that three (3) years of certain historical information concerning prospective driver employees must be requested and furnished within 30 days. Specifically, information requested would include: any motor vehicle accidents, failure to undertake or complete and alcohol or controlled substance rehabilitation program, violation of alcohol or controlled substance laws or regulations subsequent to completion of a rehabilitation program, and any other matters appropriate and useful for determining driver safety performance.

Mobil urges FHWA to limit regulatory changes to 49CFR 391.23 to those required by *Section 114 of the Act*, and not slow down or unnecessarily complicate the investigative process associated with the hiring of prospective motor vehicle drivers. Mobil recommends certain revisions to FHWA's proposed additions to 49 CFR 391.23, *Investigations and inquiries*.

49CFR 391.23(c)(1)(i), Investigations and inquiries (CMV accidents)

Mobil views the proposal to obtain from all previous motor carrier employers information on any accidents as defined in 49CFR 390.5 in which the driver was involved during the previous 3 years as a duplication of existing requirements.

Currently, motor carrier employers obtain a three year record of driving performance from State motor vehicle agencies during the hiring process of prospective drivers. Such information is readily accessible via computer/modem, and provides information regarding: current status of commercial driver's license and endorsements, citations for moving violations, and license suspensions and revocations. Information available from State motor vehicle agencies is useful and provides prospective employers with sufficient information to assess the safety performance of a prospective driver candidate.

The statutory requirement of the *Hazardous Materials Transportation Authorization Act of 1994* is currently satisfactorily fulfilled. Mobil foresees no additional benefit associated with the proposed regulatory requirements of 49CFR 391.23(c)(1)(i). Additionally, the need to extend the record retention period for motor accident log information to three (3) years would then be avoided. Mobil urges FHWA to delete this proposal from final regulations.

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49CFR 391.23(c)(1)(ii), hours-of-service violations resulting in an out-of-service order

Mobil views FHWA's proposal to obtain from all previous motor carrier employers any hours-of-service violations resulting in an out-of-service order being issued to the driver within the preceeding three years, to be of little value in assessing the safety performance of a prospective driver candidate.

Management of motor vehicle driver hours-of-service is a joint responsibility owned by both motor vehicle drivers and motor carrier employers. As an employer of commercial motor vehicle drivers, Mobil recognizes this joint responsibility to manage driver hours-of-service with the commercial motor vehicle drivers in its employment. Mobil communicates this joint responsibility to motor vehicle drivers in its employment, and has controls in place to monitor motor vehicle driver hour-of-service in accordance with FHWA's requirements in 49CFR Part 395.

FHWA exceeds its statutory authority under the *Act* in proposing this additional requirement in 49CFR 391.23(c)(1)(ii). The additional administrative requirement that motor carrier employers obtain information concerning past violations of hours-of-service criteria would be of marginal value during the motor vehicle driver hiring process. This proposed requirement would add an unneeded recordkeeping burden on motor carrier employers with little foreseeable enhancement to highway safety. Mobil urges FHWA to delete this proposal from final regulations.

Mobil encourages FHWA to require prospective employers of commercial motor vehicle drivers to obtain and maintain only that information that facilitates the hiring of motor vehicle drivers. Mobil is concerned with the implementation of regulations that increase employer administrative burden without clearly enhancing the safety of highway transportation, or that do not provide a more effective deterrent to controlled substance use and alcohol misuse by commercial motor vehicle drivers.

Mobil offers these comments in an effort to assist FHWA in finalizing this rulemaking in a manner that allows for conformance with the intent of the *Hazardous Materials Transportation Authorization Act of 1994, Section 114*, that provides motor carrier employers useful safety-based criteria, and that allows for expeditious safety performance assessment and driver hiring.

Mobil appreciates the opportunity to provide these comments to FHWA concerning proposed regulations, *Safety Performance History of New Drivers, Docket No. MC-96-6*. Should you require clarification or have questions concerning Mobil's comments, please contact me at 703-849-6188.

Very truly yours,



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